

REMARKS^c_f

ON THE

Horrible Oppressions,
INSOLENCIES,

AND

Unjustifiable Partialities,

OF THE

Commissioners of the EXCISE.

WITH

Some Historical COLLECTIONS
of Matter of Fact.

L O N D O N :

Printed in the Year MDCCVI.

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PREFACE
TO THE
Commons of ENGLAND.
In Parliament Assembled.

Right Honourable,

AS your Assembly is the Source and Original of Legislative Authority, so you are allow'd to be the only Sovereign Expositors of those Laws you make.

When the People of England find themselves oppress'd and crush'd by the partial and corrupt Interpretations of our Laws, and by Turns, and far fetch'd Devices of designing Men, rob'd and plunder'd on pretence of Legal Authority, to you they have Recourse, farther to explain, and expressly to declare the true Meaning and Design of the Laws, by which they are so abus'd.

When by a long since Dormant Law you order'd that the Brewers and Distillers, in Case of a small Penalty of 5 l. and no more, as to the Excise, upon certain Miscarriages when committed, should be decisively heard by Commissioners, &c. It cannot be imagin'd, your Honours ever design'd to condemn the Brewers and Distillers, to the Loss of their Native Privileges, as English-men; and that they, of all Men in England, should alone be so unhappy, as not to be thought worthy of their Share in the Magna Charta of England viz. to be tried by their Peers.

12/8/52 S. & M.

P R E F A C E.

This Consideration, as it is hoped it will move your Honours to redress their intollerable Pressures, under the present Tyranny of the Commissioners of Excise, so they believe it will be yet more moving to your Honours, when you shall please to reflect, that the said Penalties being risen, by sundry subsequent Acts, and additional Clauses to the Laws of Excise, from 5 l. to immense Sums; a Brewer or Distiller may now come to forfeit 2 or 300 l. per Diem. And that your Honours will agree, 'Tis of much more Consequence, that they should be heard in such Cases before just and indifferent Judges, and be tried, as is the undoubted Right of English-men, by their Peers.

The following Sheets will show your Honours some sad Examples, of the Subject ruin'd and injur'd by the Tyranny and Injustice of Commissioners, vested with this exorbitant Power; which will, without Question, move your Honours to put such Restraints upon them, that the like Destructive Measures may not be taken for the future.

The Brewers and Distillers are a People, from whose Industry and Stock in Trade, the greatest Branch perhaps of any single Revenue in Europe is rais'd; and 'tis humbly hop'd, this should rather entitle them to the Care and Tenderness of the Government, than reduce them to a Condition, in which their Property should be less safe, and their Principles more straightned than other Men: All which is humbly represented to your Honours, and, together with the following Sheets, humbly submitted to your Censure and Determination.

RE.

REMARKS on the Horrible Oppressions,
Intolencies, and Unjustifiable Partialities,
OF THE
Commissioners of the Excise.

IT is remarkable of *England*, and I mention it to the Honour of Free-born Nations in general, That no People in the World pay their Taxes with more Freedom and Chearfulness.

But two Things are always requir'd by them in the Matter of Publick Taxings, which if once they are satisfied in, they look no farther.

1. That they are Legally Enacted.
2. Equally Collected.

To have a Tax or Duty Legally Enacted; requires but one establish'd Qualification, known and understood by all Men, *viz.* that it be consented to in Parliament, pass'd into an Act by the Lords and Commons duly assembled, and obtain the Royal Assent, in due Form; when thus it becomes a Law, no *English-man* will open his Mouth, but immediately opens his Purse, and frankly parts with his Money.

It is no part of my Business here to descend to Particulars, or to show how many Taxes, perhaps more in Proportion than any Nation in the World, are thus rais'd in this Kingdom, and how chearfully paid by the People; or what Milchiefs have attended the several Attempts to raise Money by Illegal
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and Exotick Methods, the most immediate Handle of Civil Tyranny, odious to, and particularly watcht aganst, by the People of *England*; and whenever impos'd, or attempted to be so, always vigorously opposed, and more than once to the Destruction of the Contrivers.

Nor had I mentioned it here, but for this Reason; that if the People of *England* have always been, and still are so jealous of this particular Privilege, that they cannot be Taxt, but by their own Consent in Parliament; and the highest Invaders of this Privilege have been ruin'd by it; what ought they to expect from the same Resentment, who levy Taxes, when legally given, different from the true Intent and Design of the Law granting?

These raise Money without Consent of Parliament, in the worst and most destructive manner, and ought to look back to the *Spencers*, and *Gavestons* of old, who abused the Law, and the Favour of their Prince, in Illegal Extortions, Briberies, and Corruptions, and sell a Sacrifice to the Nation's Justice; and tho' indeed the Cases differ, yet in this they agree, that the Subject was both ways plunder'd and rifled, under Pretence, and by the Forms of Law.

The Extortions, Oppressions, and Partialities now before us, as they are not inferiour to any that have gone before them, either in the Villainy of the Practice, or Magnitude of the Wrong, so they have this more fatal Disaster in them, that the injur'd Subject is lock'd up by the Law, without Appeal, to be Judg'd, Try'd, and Condemn'd, by the very Parties who Confederare aganst him; and when he appeals from them, he only appeals to them; for he finds his Adversaries upon the Bench of Appeal, ready, and God knows how empower'd, to sway and determine the Cause as they please.

The Evidence in these Mock Trials, is always the Person that contrives the Accusation; who having form'd the Plot aganst an innocent Man, obtains half the Spoil for Swearing.

The Case is then brought before the Commissioners, who, in Concert and Confederacy with the indigent Wretch that swears; hear, judge, and try the Cause before-hand, and condemn or acquit, as the Market can be made.

Thus no Man's Estate is safe, but the Property and Industry of the Subject is destroy'd, by infinite Corruptions, Partialities, and abominable Practices, to the Shame and Reproach of Justice, Scandal of a well-ordered Government, encouraging all sorts of Briberies and Perjuries, and the Ruin of a Multitude of honest Families, that fall into the merciless Hands of lawless Thieves and Invaders.

And which is still more wonderful, all this is practised in the Time, under the Authority, and in the Name of a Government, and a Queen, that desires none of her Subjects should be oppress'd: Her Majesty denies Justice to no Man, oppresses no Man, nor covets any Man's Property, much less would permit any Subject, Commission'd by her Authority, to oppress their Fellow-Subjects. No Injury can be committed in *England*, but if the Government be rightly inform'd of it will obtain Redress; and all due Encouragement is given to reasonable Complainers.

These things considered, have obliged the Author of this Tract to prepare these Sheets for Publick View, in which the following Particulars shall be faithfully persued, and impartially related; and I hope the extraordinary Consequence of this Publication to the Nation, in the awakening Justice to punish unheard of Villanies, and the protecting innocent Families from the Rapine and Robberies, which are thus acted without Conscience, or Principles, will be a sufficient Justification of this Attempt.

I take the Liberty to assure the Persons concern'd, that here is no Personal or Party Cause persued; the Commissioners of the Excise, and every one of their Officers, are perfectly unknown to the Author of this; neither has he any Demand from them, or is directly or indirectly concern'd in, or a sufferer

ferer by any of their Oppressions ; but as the Daily Clamours and Complaints of the People, ruin'd and injur'd by their barbarous and unheard of Violence, fill our Streets, expose the Justice of our Government, and threaten us with worse Consequences from the Example, he has concern'd himself to enquire into the Particulars ; which he finds so unusually bad, so universally oppressive, and so notoriously partial and unjust, that in Order to immediate Redress of the Persons now suffering, and more especially in Order to prevent the growing Tyranny of unreasonable People, who make use of the Power granted them, to rob and ruin the Subject, I thought it a special Service to the Publick to lay this Matter open.

And here I shall necessarily examine Two Things.

1. Whether there is not an Exorbitant Power, Arbitrary, and in its Nature Illegal, *who Literally otherwise,* accidentally, and perhaps unwarily put into the Hands of the Commissioners of Excise?

2. Whether they have not made use of that Power to different Purposes, from the true Intent of the Law, from whence they derive it?

If in this Enquiry, Bribery, Corruption, and Partiality appear fairly chargeable upon both Masters and Servants, Commissioners and Officers, in their executing the Laws of Excise ; if thousands of People appear injur'd and oppress'd, the Trade is self discourag'd, and the Publick Duties lessen'd, flourishing Families ruin'd, and the Property of the *English* Subject invaded, the Gentlemen, whose Guilt will make them appear concern'd, must blush for themselves ; they can have no body to blame, that Grievances of this Nature at last reach the Bars of those, in whose Power only it is to redress them.

I am to enquire, Whether there is not an Exorbitant Power, Arbitrary, and in its Nature Illegal, *who Literally otherwise,* accidentally, and perhaps unwarily put into the Hands of the Commissioners of Excise?

And

And this will be best enquired into, by considering briefly the Laws of *England*, in their general Design, the Nature and Reason of them.

The General Design of Law is, to prevent Oppressions of all sorts, Injustice and unfair Usage on either Hand, to hold the Scale of Power, and judge between the Strong and the Weak. The Nature and Reason of Law is regulating the Government of a People, and bringing Methods of Rule to a stated, known, and publick Center, that if the guilty offend, the Governors know what to inflict, the Governed what to expect.

Now our *English* Laws have nothing more admirable in them, than the reducing the Government of Mankind to an Equality, and such a Scale of Justice, mingled with Right and Liberty, as no one may have Cause to complain of being oppressed, nor any Branch, or Part of the Constitution, be entrusted with more Power than is proper; or with so much Power, as to enable them to oppose or injure another.

Among other of the Native Branches of Justice, for which our *English* Laws are famous, and on the Foot of which this Nation has risen up to such a Degree of Prosperity and Riches, these are some.

1. That every *Englishman*, offending or trespassing, shall have a fair Tryal, and shall be judged by his Peers, and not otherwise.
2. That indifferent Judges shall try the Cause between the Prince and the Subject, and not Parties concern'd.
3. That no Man shall be admitted as Evidence in a Case, where he shall be Gainer by the Condemnation of the Person he witnesses against.

I could quote innumerable Statutes, and paralel Cases to prove this; the first is a Branch of *Magna Charta*, and the known Right of the People of *England*, purchas'd with their Blood and Treasure, and carefully preserv'd by our Ancestors to us their Posterity.

The second and third being founded in Reason, and daily found in the Usage of the Law, and common Practice of Courts, needs no Recital.

Now if these three known Maxims of Law, are invaded or intrencht upon in the present Case, I leave it to all indifferent People to judge, Whether the Commissioners of Excise are not vested with an exorbitant Power, illegal in its own Nature, and contrary to the Rights and Privileges of the *English Nation*.

That this Power is vested in them by Parliament, and consequently is literally Legal, I do not deny; but then I desire to examine how it came to be so? and how it is improv'd by the Commissioners? And this in order humbly to represent it in its Season to that Honourable Assembly, and show them, That the Power thus deputed is, by those Abuses, become so Exorbitant, as it is well worth thier Honours Enquiry, Whether is it not injurious to the Subject, and too much Power to be entrusted or committed to any Set of Men, less than a Parliamentary Assembly.

'Tis true, the Act that first left the Determination of Offences against the Laws of Excise to the Commissioners, has now remain'd for a considerable Time, that is to say, in the 12th of Charles II. and is entitl'd, *An Act to take away the Courts of Wards and Liveries, &c.*

And the several Acts since made, viz. for additional Duties, Penalties, and Forfeitures, having all had their Reference back to that Act, have seem'd too much to depend upon the Justice and Equality of that first Law, and thereby left the Delinquent to the Mercy of his Accuser, and to the corrupt Sentence of an arbitrary Enemy, too often, *as there is good Cause to fear*, interested in the Sentence he passes.

Now as when the Act was first pass'd, the Severity of it was not much regarded; the Penalties being small, and not exceeding 5*l.* for any Offence; so 'tis humbly conceiv'd, had that Parliament thought fit, at that time, to have laid the fe-

vere Penalties of 200 *l.* 100. 50. or 20 *l.* and the other various Forfeitures; by which one Man may, in his common way of Trade, become liable to the Forfeiture of 1000 *l.* per Week; it is humbly submitted to the publick Judgment, whether I am too presuming, if I say, 'tis very likely the Parliament would have been very cautious in the Matter, and have consider'd it again and again, before they gave such exorbitant absolute Powers to Men of Places, and Court Commissioners; who, if they are not, are however to be suppos'd, capable of being Mercenary and Tyrannical.

This Law therefore is, in its Execution and Construction, contrary to the Native Right of *English* Men; and I hope, cannot but recommend it self for some Amendment, if not, a Repeal to the Consideration of an *English* Parliament; since it cannot but be thought hard, that the Distillers and Brewers, who pay the most Taxes, to the general Support and carrying on the War, should be the only People, who must not enjoy the common Privileges of *English* Men, and whose Offences must be tryed differing Ways, from all the rest of the free-born People of this Nation.

I know it will be objected here, That the Parliament have taken Care of the Subjects Rights in this Case, by establishing Commissioners of Appeal, where the Subject is to have Redress.

Now though 'tis true in the Nature of the thing, that to erect a Court of Appeal has a very great Face of Justice in it; and no question, the Parliament who establish that part of it, thought they had provided for all the Evils that could befall the injur'd Subject.

Yet when the Conduct, and indeed the Capacity, of these Commissioners of Appeal comes to be examin'd, when the Concert between them, and the Persons appeal'd from, comes to appear, how little Redress they give in Cases of notorious Injury, and Abuse of the Subject, how tedious, chargeable, litigious, and fruitless these Appeals are, how often the Appellant finds his Adversaries, the Commissioners, sitting on

Bench with the Commissioners of Appeal, hearing the Cause again, commanding the Ear of the Judges of Appeal, influencing and byassing, and *too much governing* their Opinions; when once the unheard of Crimes of these pretended Judges comes to light, and the black List of their partial and fraudulent Methods shall appear, it will easily convince our Legislators, that to make Commissioners of Appeals in such a manner, &c. to such People, is to commit the suffering Subject to the Mercy of his exorbitant Enemy: And I believe, I may offer in the Name of the Brewers and Distillers in *London*, that they would give 20000 *l.* to have a fair Appeal to indifferent Judges, Men of Knowledge in the Law, and Conscience in Practice, and to have all the Causes heard again before them, for which they have been barbarously and unjustly Sentenced and Fined, by the Mercenary and Tyrannical Proceedings of the present Commissioners.

If these things are true, as there is too much Reason to believe they are, and of which any Man is left to judge, when he reads the Historical Collections of Matter of Fact at the End of this Treatise, it cannot but be own'd 'tis high time to lay this before the Parliament of *England*, where such Grievances as these never want Redress, nor the injur'd Subject cannot fail of being impartially heard and reliev'd.

2. It follows to enquire, whether these Commissioners have not applyed this Power, vested in them by the Law, to different Purposes from the true Intent, &c.

This will in nothing better appear, than in the five Heads of Articles exhibited to the Parliament, in a Paper printed by the Distillers, and presented to the Members with their Petition; and which are as follows.

1. **I**Nformations being Exhibited, unknown to the Persons inform'd against, tho' pretended Summons have been sent, frequently are suffer'd to lye several Years unpursu'd, till the Servants and Witnesses, by which the Persons Accus'd might

might defend themselves, are gone from them, or Dead, or have forgot the Particulars.

2. On the other Hand, Complaints made by the Distillers, for the Injuries and Ourages of their Officers have been so long left unheard, till they have not been able to make out the Particulars, for the same Reasons, as in the Head above.

3. That they Arbitrarily take upon them, to determine Property, and refusing the Duty, when lawfully tendred by the right Owners, and Persons from whom it is legally and only Due, demand it of others wholly Unconcern'd, and pretend to Forfeitures for the Default.

4. That when they have been Summon'd to Tryals, on either Informations or Complaints, and have duly attended with Council and Witnesses, they have been put off, without Reason given, from time to time; on purpose to tyre them out with the Charge and Expence of Attendance.

5. That sundry Persons have been Condemn'd and Fin'd, by the arbitrary Sentence of the Commissioners; and at other times have been acquitted for the same kind of Fact, which to Day is, and to Morrow is not; or in this Person is, and in another Person is not a Crime, according to the Pleasure of the Commissioners: By which Means, Innocent Men are led into Crimes, by the Allowance of those very Men, that afterwards Censure and Condemn what they before Approv'd: And no Man can know when he acts Safely, and when Not.

Before I enter into an Explication of the particular Tyrannies, Oppressions, and horrid Practices of the Commissioners, in the Execution of the aforesaid exorbitant Power, it will be necessary a little to explain a Defect in the late Constitution of the Excise, which is since, at the Motion of the Distillers, rectified in Parliament the very last Session; and in our Enquiry after which, Two strange Paradoxes will appear and be unriddled also to every Bodies Understanding.

1. That it may come to pass, that the Commissioners of Excise, whose Duty it is to improve the Duty, may think themselves oblig'd to lessen it one third part, for the great Profit and Encrease of the said Revenue.
2. That it may so happen, that the Distillers, to save their Money, may become humble Petitioners to the Parliament, that they may be Tax'd at one third more upon their Product, than they were before, and yet not sell it the dearer neither.

To come to the true Understanding of these dark and mysterious Things, it is necessary to acquaint the World, that the last Session of Parliament divers Distillers, and one Mr. F----- among the rest, for which he never expects nor desires to be forgiven by the Commissioners, finding the continual Oppressions and Vexations of these litigious People intolerable, address themselves to the Parliament, to obtain a Clause for ascertaining the Quantity of Low Wines and Spirits, which they should be charg'd with upon every proportion'd Quantity of Wort or Wash.

In their Application for this they alledg'd, that this adjusting the Duty would have this Advantage to the Crown, *viz.* that the Wash generally running more than the Charge, the Officer being left at Discretion, it would encrease the Duty, at least one third part.

The Advantages to Trade were, that there would be no Room for the Officers, who now were left at Discretion, for want of Bribes to oppress one, or by the Help of a Bribe to favour another, and the Subject would be freed from the many vexatious Suits, on Pretence of Frauds, Concealments, and the like, by which they ruin'd several Families, and injur'd more.

Secondly, Every Man now paying alike, the Advantages which those had, who in Concert with the Officers, defrauded the Government, and thereby injur'd Trade; would be taken away, and all Men would stand upon an equal Foot, according to the Rules of Reason and Justice.

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In the pressing, and defending this Motion, it was very odd, and not a little diverting, to hear the Commissioner on one side tell the Distiller his Wash would run but so far; and the Distiller telling him it would run so far, and one third farther; and a by Stander could not but smile to hear the common Discourse, how the Commissioner and Distiller's Quarrel was exprest in the following short Dialogue, supposing the Names to be *Townsend* Commissioner, *Fuller* Distiller; whether there are any such Men or no, I know them not, nor is it to my purpose. You may call them any Body else, if you please, but their Discourse will be the same.

Townsend. What do you Petition for?

F. Distiller. To pay more Duty upon Low Wines.

Townsend. I shall oppose you.

Fuller. Why so?

Townsend. Because you pay enough already.

Fuller. But we are willing to pay more.

Townsend. But you shan't; the Queen has enough of you.

Fuller. She han't enough; and we will pay more.

Townsend. How will you pay it?

Fuller. Why our Wash is not charg'd to the highth, as the Act directs.

Townsend. It is charg'd at 1 and 1/2 th. Is not that enough?

Fuller. No, tis not enough; for it is to be charg'd what it will run, and it will run more.

Townsend. They wont run more.

Fuller. It will run more, and I knows does run more, and therefore we shall pay it.

Townsend. I am resolv'd you shall not pay it.

Fuller. Then you'll cheat the Queen, not We.

Townsend. I care not for that.

[Exit Excise-man]

Fuller. I believe so.

A very pretty Dialogue this; for the Jest lies upon the Commissioner pleading against the Queen's Duty, and the Distil-

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let for it; the Commissioner opposing the Encrease of the Tax the Distiller striving to be charg'd higher than he was before. Now that the *Leger de main* of this may appear, and the Wonder be remov'd, 'tis necessary to enquire into the Riddle a little, and lay it open to the World. The Case is this.

The Distiller has been so continually oppress'd by the Partiality and Insolence of the Officers, to Day charging less, to Morrow more, charging more to one Man, less to another, and by that giving whom they pleas'd to favour, unjust Advantages over their Neighbours, taking Occasions from a discretionary Power to use those ill that they thought fit to disoblige, drawing Men first into Snares, and then act the true Devil, first to tempt, and then accuse, *and the like*, that it became intollerable.

To prevent this, and set themselves free from these Inconveniences, as all Men are willing to purchase their Liberty, though they buy it dear, they often propos'd to the Commissioners that they should settle the Payment upon the Low Wines, though it were at the Extremity of what they would run, and they would consent to pay the highest, so they were at a Certainty, and they might but be freed from the daily litigious Insults and Humours of the Officers, and be sure that every one had Neighbour's Fare, and paid alike.

The Officers, who by their pretended Informations, under the Shelter of the Commissioners Favour and Injustice, made these Oppressions very profitable to them, found, that if this Proposal went on, they should have little or no Profits, their Salaries excepted, and should be reduc'd to a Road of Business, in which the Distiller could commit no Mistake, and consequently their plundering Trade would cease, they therefore made great Opposition against this Proposal; and the Commissioners, who had no other way to gratify their Officers, to shew themselves officiously diligent in their Office, and make an Appearance of Serviceableness, fall in with their Officers, and refused this most reasonable Proposal.

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I will not say that their opposing it had the main and capital Reason annext, *viz.* sharing the Profits of the Fines and Forfeitures, and those exorbitant Sums they extorted on these Occasions; but without injuring them, I believe I may say, all the World, that enter into the Particulars, will be of that Opinion, *but me.*

For what else can common Reasoning infer, when Men who by the Duty of their Office ought to advance the Revenue, by all reasonable and just Methods so far as those Methods correspond with the true Intent and Meaning of the Laws of Excise, should refuse an Offer, that they knew would encrease the Duty at least one third part, and quit the Office both of the Trouble and Scandal of innumerable Prosecutions, which, if they were honest Men, would be their Burthen, not their Pleasure.

'Tis a plain Case, that the Meaning of a Law, to which Penalties are annext, is not the putting in Execution the Penalties, but the Performance of that for which those Penalties are plac'd as a Guard, *viz.* the Payment of the full Duty, if the Duty may be ascertain'd and secur'd without the Penalty, the End of the Law is more fully and compleatly answer'd, than if it be done with it; since Punishments in the Sence of the Law, are not inflicted by way of Satisfaction for the Offence, so much as *in Terrorem*, by way of Example to deter *Others* from committing, and *the Criminal* from repeating the Offence.

To have the Commissioners therefore refuse an Offer, for ascertaining and securing a compleat Obedience to the Law under their Management, and choose to apply themselves to the Coercive Part of it, *viz.* the Penalty; People will be apt to guess that this must arise from other Principles than a bare Desire of executing their Power, and discharging their Duty, according to the true Intent and Meaning of the Law.

But when to this is added, that they choose the Coercive Part, when they are *offer'd*, to have the Duty *not only secur'd*, but encreas'd; and that they shall be content the Government

shall receive less by one third part of the real Due, than by fair and ascertain'd Rules they might obtain, rather than have the Rod taken out of their Hands, and the penal part of the Law laid asleep; *when this appears*, tho' I may be backward in calling them *Mercenaries*, and *Men regarding not their Duty*, but seeking to make their private Gain out of publick Oppressions, I doubt few others will be so sparing in the Point.

For, what else should be the Reason of the many Vexations, Oppressive and Tyrannical Dealings, Trades-men daily say they meet with at their Board, where they every Day insult, huff, and ill treat Men, every way their Superiours, *their Commissions excepted*; and without Respect either to Justice or good Manners, debase that Commission in stooping their Authority to things below any Man that serves a Prince of so much Justice and Moderation; and who, they ought to know, desires not to have any of her Subjects oppress'd, or trampled on, by the meanest Branch of her Power.

When these Men therefore descend to taunt and insult those that come before them for Justice, when they justify and support *Scoundrels* and *Vagabonds*, in their ill treating the Families of *better Men than themselves*, when they *delay and deny* Justice to those that complain to them, *disparse* with the Laws they ought *in Duty* to execute, when they pursue their Place with apparent personal Pique at particular Men, and assault their Reputation, in order to ruin them in their Trades, when they point and single Men out to load them on all Occasions, and take all possible Advantages to their Destruction; when these are the Methods by which they execute their Office, I must tell them, first they do what neither the Law designs, nor the Queen approves, who desires all her Subjects may be treated with Tenderness and Gentleness, and the Duties according to Law being duly paid, there should be no Violence or Oppressions made use of, nor any Body rendred uneasy, much less injur'd and affronted.

'Tis true, the Particulars above ought not to be insisted upon, unless there were some Ground to believe them to be true ; and therefore to justify this short Excursion, some Examples shall illustrate the Case : And if Matters of Fact leave any thing black upon these Gentlemen, they must blame their own Conduct, since 'tis impossible such things as these can be long conceal'd from the World, nor can I believe the Commissioners can be so weak as to expect it.

The Distillers having, as is before observ'd, frequently made this Proposal, for ascertaining the Lengths of their Wash, but to no Purpose, and finding it in vain to solicit Men, who appear'd, both by their Interest and Inclination, partial to themselves ; and that even offering an Encrease to the Duty would not prevail, resolv'd to lay the Case before the Parliament.

And here the Commissioners met with the first Blow to their exorbitant Power ; for when the Members of the *House of Commons* came to examine a little into the Particulars, it was a Mystery no Man could understand, but those that were in the Secret, why the Lengths should be left to the Discretion of the Officer, to favour or oppress who he pleas'd, when the Distiller was willing to be fixt at the highest Charge they could make. It was an Argument no body durst oppose there, whatever they did other ways, when the Distiller offer'd to increase the Duty one third part, only to be out of the Power of the Insolence and Oppressions of the Officers : And therefore, though the Commissioners did make a faint Resistance, yet their Cause was too foul to be well defended ; and if they had enter'd into the Particulars, something too gross for them to justify would have appear'd in it, so they gave up the Cause, and the Point was carried.

But as this was no small Mortification to that whole Set of Thieves call'd Gaugers, as well as their Supporters the Commissioners ; so it comes of Course to examine what Methods they took, to show their Resentment for the Loss of the sweet
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Income, they us'd to make of these Oppressions: And this will introduce a black Roll of some of the most villanous Actions, that ever Men, entrusted with the Management of Justice, under a Reign so mild, so gentle, and so just as this is, could be imagin'd to be guilty of.

How they came to venture upon such things, and how it could enter into their Thoughts, to imagine they should not be call'd to an Account for such Proceedings is hard to guess, unless it be that they found themselves encourag'd, by having the better of the Distillers in the preceding Parliament; when things in general carrying something a differing Face to what they have since, the Commissioners had Stock enough to appear publicly in Defence of their preposterous Methods, and carried their Point by four Voices.

But now finding the way to Justice more easy for the Subject, and the Door wide open to just Complaints, their Hearts fail'd them, and they made a more faint-hearted Opposition, knowing that Complaints of a more fatal Consequence lay hid in the Consequences of these things.

But, as Men of Crime are generally insatuated in either carrying on or concealing their Follies, so Fate that ow'd these Gentlemen an ill Turn, harden'd their Faces to such false Steps, as has sufficiently detected them; and now their Weakness and Wickedness go so hand in hand, that he must be very blind, and capable of giving no Judgment in common Affairs, that does not see them both together.

Having noted that in the last Parliament they carried their Point by a Majority of four Voices in the House, it comes of course to examine a little of their Conduct upon that Success.

Flush'd with the Victory, and not troubling themselves to look forward to what might be the Effects of another Parliament, or of a further Enquiry into the Matter, they fell to making use of their Advantages so, as they thought might terrify any body from daring to instruct them again in their Business: And as Kings, after a Tumult or Insurrection in
their

their Government is happily suppress'd, begin to enquire for the Ring-Leaders of those Broils, in order to bring them to Punishment, so these Gentlemen, made haughty by their fancy'd Success, enquire who was the principal Persons who dar'd presume to say, they did not make the best of the Queen's Duty.

Their Emiffaries soon inform'd them, *for they never want Informers, that can either find or forge Crimes, by which to give them handles to ruin Men when they find it to their Purpose,* That one Mr. Fuller was a principal Agent in this Matter; and, as they stiled him, was the Ring-Leader of this Rebellion against her Majesty's Commissioners.

There happened, to their great Mortification, one Difficulty in the way of their Resentment; *viz.* that this Mr. Fuller had been a Distiller, but had lately left off his Trade, and divided his Work-houses, Utensils, &c. between his two Daughters, who now carried on the Trade severally, and apart on their own private Accounts, and so Mr. Fuller was very unhappily out of their Reach; and all the Machines they had ready to torment him with, were rendred wholly useless.

Calling a Council upon this Emergence, a way was found out to their mighty Satisfaction, how to master this Difficulty; and the Proceedings, upon this new Discovery, will be the Subject of our first Observation, in which, I doubt not, the Relation will be very diverting to the Reader, as it has been mortifying to my Masters the Commissioners. If any thing particularly scandalous to their Morals, happens in my way from this Account, I shall endeavour to be as tender of them as the Case will bear; since should the whole be seen in its true Colours, with all its Aggravations, the *English Rogue* would be a Fool to it; and I should be afraid for them, that publick Justice should concern it self in the Case.

The first Step they took with Mr. Fuller, upon the new Result of their above noted Councils, was to determine that the Alienation of his Trade or Effects to his Daughters was a Sham,

Sham, a Design only to skreen himself from the Law, and that the Trade was still Mr. *Fullers*, and not his Daughters, and therefore as such they resolv'd to proceed with him.

The next Work was to enquire, what Advantages they had upon him from this Supposition; and here began the black Scene to open; and I confess, when I see how heartily these Gentlemen had cut out Destruction for an innocent Person and his Family, with what Eagerness they had devour'd him, how the Insolence of their Harpies, the Officers, was grown to that highth, that one of them had the Face to boast he did not doubt but to keep his Coach out of his Share of Mr. *Fuller's* Estate; when I reflect on all this, as the Product of private Revenge, and a personal Resentment, only for his attempting to pay more, not less than they rais'd before, I cannot but conclude, there must be something very barbarous in the general Practice of collecting the Revenue of Excise, which stands in need of something so horrid to cover and defend it; but more of this will be discovered in the Sequel of this Story.

Among the vast Variety of Penalties upon Mr. *Fuller*, supposing the two Still-Houses were his own, this was the first.

It is a Clause among the Laws of *Excise*, in the Act of 7th *William III.* That no Distiller shall work a House of Molasses Spirit, and another of Malted Corn, at the same time, under the Penalty of 5 l. per Barrel for all Malt Wash. Now Mr. *Fuller* having two Offices for Distilling, distinct in all their Parts, and at 40 Yards Distance from one another, had set up one of his Daughters in one Still-House, and one in another; and having given them several and separate Stocks, they graded apart, one in one House, and one in another; one distilled from Molasses, &c. the other from Malted Corn.

But to carry the whole Story here along with me, it will be needful to enter into the Matter of Fact, how and in what manner Mr. *Fuller* had dispos'd of his Trade and Work-Houses to his Daughters. as appear'd upon Trial.

Mr.

Mr. *Fuller* had a large Building near *Cow-Cross*, which with the Yards, Offices, and Appurtenances, took up half an Acre of Ground at least, and had been divided into two Distilling Houses for above Fifteen Years; which is noted, because the Commissioners alledg'd it otherwise, as will appear presently.

Mr. *Fuller*, about two Years ago, being willing to leave off Part of his Trade, gave his eldest Daughter *Esther Fuller*, one part of this Building, and a Stock to carry on the Trade; and this Daughter of Mr. *Fuller*'s caus'd a Still-House for Distilling Molasses to be built on her Part.

Here she carried on the Trade in her own Name, entered the House at the Excise Office as her own, went on with her Business regularly; the Officers charg'd her with the Duty, her Servants constantly paid it at the Excise Office in her own Name; and the Commissioners receiv'd it, and she has her Receipts for it all in her own Name for 17 Months runing, during which time she paid the Queen 729 l. 5 s. 8 d. Duty on her own particular Account.

During part of this Time her Father, Mr. *Fuller*, carried on the other House, distilling from Malted Corn, and duly paid the Excise for his Part in his own Name, for about eight Months, and no Pretence or Shaddow of Dislike was offered, either by the Commissioners, or their Officers, at either of these Cases.

After this, Mr. *Fuller* being oblig'd, by his Family Affairs to change some Settlements he had made, and make others in Lieu thereof, by the Consequence of these things came to settle a certain Sum of Mony, as a Personal Estate, upon his youngest Daughter, *Millicent Fuller*, as he had before done upon his eldest.

In doing this, finding his eldest Daughter go on in her Business with reasonable Success, and being loth the other part of the Trade should be lost from his Family, he intending to draw himself out of Trade, and live retir'd, he resolv'd to give

give the Trade and Stock of the other Distil House, which he then manag'd to his said youngest Daughter, *Millicent Fuller*, and to settle her in the same.

When he had done this, his Daughter being then under Age, and going to enter upon the Business, the Excise-men made some Difficulty of accepting her in the Office, or entering the House in her Name; and though the Reasons they gave were very insignificant, yet to avoid any Disputes, those Gentlemen not being always to be govern'd by Arguments, Mrs. *Fuller* enter'd her House in the Name of *John Davis*, but in Trust, for the sole Use and Benefit of *Millicent Fuller*; and this was accordingly accepted at the Excise Office, and she went on for ten Months in her Business, and in that time paid 667 l. 8 s. 6 d. to the Queen for Excise, no Fraud, no Pretence or Complaint being at any time alledg'd or made against the said Houses. And thus stood the State of Mr. *Fuller's* Affairs, when about last, Mrs. *Fuller*, not being very easy to repose so great a Trust in the said *Davis*, ordered the said *Davis* to surrender the same, and desired that the House and Trade might be carried on in her own Name.

But it was surprizing, when upon Application to the Commissioners, they would neither suffer the House to be enter'd in Mr. *Fuller's* youngest Daughter's Name, nor in *Davis's* Name, as before; and not only so, but that they would not suffer his other Daughter to continue the Molasses Trade in her Name neither, but would have it all put back into Mr. *Fuller's* Name; In Answer to which, when Mr. *Fuller* alledg'd he had given it to his Daughter about two Years ago, he was told, the Commissioners would take *Esther Fuller's* House away from her again, and give it him; that when they were of Age he might give them what he pleas'd, but they would not allow any Bargains he had made with them before.

At another time they had the Folly, or Insolence, take it which way you please, to tell him, by one of their Officers, that he ought not to give his Daughters so much, and that they could not agree to it for several Reasons; but they assign'd but one, which was a very kind one, *viz.* that he might come to want himself.

Now as Mr. Fuller was perfectly ignorant of the Plots laid against him, in order to make that last Reason be true, and that the Commissioners had resolv'd, if possible, to reduce him to want, he could not be so sensible of, nor so thankful for their Care of him as he is since; and so wanted Gratitude to thank them, but I dare say he will not now be wanting in his Civility to them that way upon all reasonable Occasions.

Well let that be how it will, pursuant to the Measures these Gentlemen had taken among themselves, they refused to take any more Entries from either of Mr. Fuller's Daughters; whereupon the youngest left off Work for the present, but Mrs. *Esther Fuller* went on with her Business, tending the Duty Monthly at the Excise Office, but to no Purpose, they positively refusing to accept it, but in the Name of her Father.

And now things grew ripe for Execution, and the Flame broke out; for having resolv'd both the Houses to be Mr. Fuller's, though they made themselves therein Judges of Property, which by no Authority belongs to them; on the 23^{d.} of March, 1704. they exhibited an Information against Mr. Fuller, for 260 *l.* Forfeiture for one Days Working of two Houses contrary to Law, he being charg'd in the said Information as Owner of both, though 'tis plain he had not the least Right or Concern in either; and at the very same time they charg'd *Esther Fuller* and *John Davis* with the respective Duties of each House,

And here it may be noted, that could they have brought this Information to bear, the Officer was not out in his Calculations,

ulations, of keeping his Coach out of Mr. Fuller's Estate; since by this Act they might have recovered about 1200 *l.* per Week Penalty upon him for about Thirty Weeks, if they could have prov'd the Property to be in Mr. Fuller.

But this was not all, or indeed but the least Part of the black Design, form'd for this Gentleman's Destruction, for from this time they ordered their Cashier to refuse any Money from either of the Daughters of Mr. Fuller in their own Names; though they made due Tenders of it Monthly at the Office. Having thus brought the Duty to an Arrear, they charge it on Mr. Fuller, and by Virtue of an Act of Parliament, which obliges the Distiller to pay double Duty, if not paid within the next Month after charg'd, they first bring an Information against Mr. Fuller for 216 *l.* for one Month, and so on, till by the Penalty and the Duty, being Judgers and Accusers themselves, they fin'd him about 2000 *l.*

In Pursuance of this Proceeding, they granted a Warrant of Distraint upon his Goods; and with this they come to Mrs. Esther Fuller's Still-House, and as they had fin'd her Father for her Debt, so they double the Mistake now, and seize her Goods for her Father's Fine. How they hamper'd themselves here will appear by and by; but in mean time we must go on with the examining the matter of Fact.

They seiz'd of Mrs. Esther Fuller's Goods, 10 Hogheads of Melasses, which cost her 92 *l.* 8 *s.* 6 *d.* And not to fail in making themselves compleat Thieves, these were sold at almost 30 per Cent. Loss, though at the same time a very good Commodity, and indeed any body's Money, being sold but for 64 *l.* 8 *s.* 8 *d.*

Things were come now to a due Height, and Mr. Fuller was brought to that Crisis of Affairs, he must either be reliev'd by a superiour Power, or be torn to pieces by these Men of Rapine, the Commissioners.

However, to try, if possible, all the Methods that were soft and easy, and to obtain Redress by regular Steps,

Mr.

Mr. Fuller first complain'd of the wrong to my Lord Treasurer, in an humble Petition, laying before his Lordship his Case, as charg'd with the Duty of Excise, when he was no ways concern'd in the Trade; the true Copy of which Petition is as follows.

To the Right Honourable Sidney, Lord Godolphin,
Lord High Treasurer of England.

The Humble PETITION of John Fuller, Gent.

Sheweth,

THAT the Officers of Excise have charg'd your Petitioner for Seven Months last past, ending in October, with the Duty of Excise of two Distilling Houses, which amounts to 556l. 3s. 3d. altho' he has not any Right or Property in either of them; and the Owners hereof have made their due Entries at their first Beginning, and Monthly as the Law directs, and did for a considerable time pay the Excise that was charg'd on them, and have for Seven Months Monthly sent their Money to the Excise Office, as it became due, as they always used to do: But the Commissioners ordered that it should not be taken, and have granted Warrants against your Petitioner for double the Sum above-mentioned, notwithstanding there is not any thing due from your Petitioner; which Proceedings do hinder the Queen of about 80l. per Month, and the Consumption of about 400 Quarters of Malted Corn, per Month. Wherefore your Petitioner humbly prays, That your Lordship will be pleas'd to take the Premises into your Consideration, and to hear your Petitioner and his Council: And your Petitioner shall pray, &c.

Do

Upon

Upon the Delivery of this Petition, and its being referr'd, as is usual in such Cases, to the Commissioners to give in their Report, they gave it in so full of plausible Falsties and Suggestions, that my Lord Treasurer was pleas'd to think them in the Right: And the Pride of the Commissioners being heightned by that Success, they redoubled their Fury upon Mr. Fuller, and his Daughters.

Mrs. *Esther Fuller*, in the mean time, brought her Action for her Melasses in her Majesty's Court of *Common Pleas*, and for Damages sustain'd by the Seizure; this Suit being commenc'd in *Michaelmas* Term last against the Officers that carried the Goods away, and the Carmen and Porters their Assistants, was defended by the Commissioners; and it being not to be brought to Trial till the 13th Day of *February* following, I shall, in the mean time, consider the Answer of the Commissioners to my Lord Treasurer's Reference, containing the principal Part of their most weak and scandalous Defence at the Trial, as follows.

To the Right Honourable Sidney, Lord Godolphin,
Lord High Treasurer of England.

May it please your Lordship,

IN Obedience to your Lordship's Order of Reference on the Petition of John Fuller, hereunto annexed, We do humbly certify, That the Petitioner hath exercised the Trade of a Distiller for many Years last past, during which time he hath been convicted of divers Practices to the Prejudice of the Revenue; That till about two Years past, he followed his Trade in his own Name, and built one entire Distilling House, or Room in Cow-Cross, the which he entered in his own Name, where he used to distill from Malt Wash and Melasses Wash.

That

That the Duty of Low Wines from Melasses, and other Foreign Materials, being four Pence a Gallon, and from Malt but one Penny, Distillers who distill from each of those Materials in the same Distilling House, do frequently blend those Materials together, for improving their Malt Spirits, and pretend their Low Wines were always drawn intirely from Malt Wash; which Practice tends much to the Diminution of the Revenue.

By the Act of 7th. William III. Distillers of Low Wines from Corn are prohibited, under a Penalty, from preparing, or having any Wash from Melasses, or other Materials, till they have drawn off their Malt Wash, which Act we put in Execution against the Petitioner. Whereupon the Petitioner contriving how to evade this Law, made two Doors into this one Distilling Room, and two Passages or Ways to it, and set up a Partition of Boards in it to divide one part from the other.

The one part he entered in the Name of one Davis his Servant, as a distilling House from Foreign Materials, and the other in the Name of Esther Fuller, his Daughter, then about 12 Years of Age, as a Distiller from Malt, thereby intending to keep Foreign Wash in one part, and Malt Wash at the same time undistilled in the other. He also caused a Door to be made in the Partition, whereby there was as great a Communication between the two parts of the Room (for committing of Frauds) after the Partition was set up, as before. About April last, another Entry was made in the Excise Office, in the Name of Millicent Fuller, another of his Daughters, about 13 Years of Age, of that part of the Distillery, that before was entred in the Name of Davis.

Matters thus standing, the Petitioner calls himself a Gentleman, and pretends not to be a Distiller, but to have left off the Trade: Tho' we are satisfied, he carries on the Trade now as much as ever, under the Covert Names of his two Daughters, whereby the Fraud within mention'd may be continued, and the Act evaded.

Whereupon we thought it our Duty not to be imposed on by such Practices, and therefore order'd our Cashire to take no Money for Duty of Excise, in the Name of these two Daughters, And the
Petitioner.

Petitioner refusing to pay the Duty in his own Name, we issued out Warrants to seize his Goods, for the Duty owing, the which hath been accordingly executed, and the Petitioner hath brought Actions against our Officers for so doing.

Upon the Circumstances of the Case aforesaid, and the Consideration that the Petitioner's two Daughters are Infants, and thereby incapable of making a binding Contracts for the buying or selling of Goods in Trade, or exercising the Trade of a Distiller, we are humbly of Opinion, that the Practice above ought not to be continued, for if it be the Petitioner will have an Opportunity of defrauding her Majesty in the Revenue of Excise, which Opportunity we have Reason to believe the Petitioner will not be able to resist.

All which, nevertheless, we humbly submit to your Lordship's great Wisdom.

Excise-Office.

Dec. 15th. 1705.

Foot. Onslow.

William Strong.

George Townesend.

Phillip Ryley.

Edward Noel.

J. Boys.

Marm. Wyvill.

A full Answer to these Pretences would so much expose the Commissioners, and their Practices, that I am loth to enter upon it; but 'tis impossible to forbear a few just Remarks upon the Allegations in it, and the plain Forgery of their Reasons.

As First, That Mr. Fuller had been often convicted of Frauds in the Excise.--- Whereas, 1st. If he had, that was far from being a Reason why he should not leave off his Trade, or give his Estate to his Children. 2dly. 'Tis false in Fact, save that once they put him to the Charge of 400 l. and

and he pay'd it, for Breach of a Law, *the very next Day after it pass'd the Royal Assent*, and before the Officers had given any new Regulation thereupon, as they ought to have done, and this above Seven Years ago. Whereas Mr. Fuller's endeavouring not to commit Frauds, but to prevent them, and thereby render the Number and Abuses of the Officers useless, has been his Crime, he having lately before this obtain'd the Adjustment, and settling the Duty on Melasses to a Certainty, and now attempted the like on the Malted Corn.

That he built a Room, AS THEY CALL IT, and then partition'd it off with a Communication in the Partition, whereby Frauds are easy to be committed; these are such Shifts and Subterfuges, that no Men, *whose Cause had been clear*, would have stoop'd to; since a Survey of the Place would have detected them, and have expos'd their ridiculous Insinuation; let us therefore a little examine these Forgeries, for the real Matter of Fact is thus.

The Distil-Houses here mention'd are 40 Yards asunder, the whole Building taking up near half an Acre of Ground, and has been in two distinct Distilling-Houses for above Fifteen Years past; what was built for a Melasses House was built by Mrs. *Esther Fuller*, since Mr. Fuller parted with his Property in it; - *Forgery No 1.*

As to blending Melasses with their Malt Wash, in order to commit Frauds, 'tis such an Absurdity, *No. 2.* that either my Lord Treasurer ought to resent their imposing upon him, and punish their Impudence, or they ought to be pity'd for Fools, that are impos'd upon by their own Officers, knowing no better, and so they should be used accordingly.

The Law against one Distiller working two Houses was to prevent charging the Spirits drawn from Melasses, only as Spirits drawn from Malted Corn; and all the Distillers in *London* will agree, that if they had full License to blend the Materials together, as Melasses and Malt Wash, and pay no Duty at all, they would not do it; as appears by the Oaths of the
most

most eminent Distillers in *London* on the Trial, so that this is such a Sham of a Pretence, N^o 3. as very much help'd the Court to laugh at them, when it came to a Trial, and they could not have taken a more ready way to expose themselves.

As to the Dors, which they call two Doors into this one Distilling Room, their own Books will give their Worships the L^{ts} in calling it *one Room*, they having received 1500 *l*. of them for Duty as two distinct Distilling Houses in two distinct Proprietors; and till they found Occasion, as they thought, to pinch Mr. Fuller, they never suggested it otherwise, and therefore this must stand for N^o 4.

But to come to this one Room, and two Doors made by Mr. Fuller, this is N^o 5. with a Witness, and might stand for two: For, 1. The Doors have been both there above 40 Years; they are above 40 Yards asunder, and two large Dwelling Houses stand between the two Work-Houses, which they call one Distilling Room.

The Arguments from these Allegations are as absurd as the rest, viz. that Frauds may be committed, *which no body can deny*; and so they may any where, or else their Officers are but very useless People, and paid to no Purpose: Had they been able to say, Frauds H A D B E E N Committed here, it had been much more to the Purpose, and had had some Show or Colour of an Excuse from what had been said before.

The concluding Stroke is, That by the Daughters of Mr. Fuller being put into the Trade, like Frauds MAY BE Committed; and therefore they thought fit to prohibit Mr. Fuller's Daughter turning Distiller.

Had the Law thought fit to restrain Persons from being Distillers till they were of such an Age, or given the Commissioners Power to say, who shall or shall not set up the Trade, they had had some Room for this empty Pretence; but they ought rather to have told his Lordship the whole Truth,

Truth, which was that Mr. Fuller having been a busy Fellow, *as one of them stil'd him*, in ascertaining the Duties on Melasses, and having attempted the like on the Duties from Malted Corn, they found it convenient to crush that pernicious Attempt, if possible, since without it *their Craft would be in Danger*, and the great Harvest their Informers made of the publick Oppressions of the Distillers be destroyed; and that therefore they had found out this Expedient by their own Authority, and absolute dispensing Power, to call these Houses Mr. Fuller's; that by that Means hooking him into intollerable Penalties, they might have secur'd him from further Attempts to their Prejudice.

This had been an honest Confession, and the true Genuine Sence of the Matter, as by the Sequel of things too plainly appear'd.

But to go on with our History, while these things were depending, the Parliament met, *viz. October 23d.* and Mr. Fuller, not discourag'd by all these Proceedings, and depending upon the Justice and Sincerity of his Intentions, laid the Case of the Distillers of Malted Corn before the House; and so plainly convinc'd the unbiass'd Judgment of the Nation's Representatives, both of the real Advance it would be to the Queen's Revenue, and the just Reason there was to relieve the Distillers, and free them from the Tyranny of the Officers, that the Commissioners made but a faint Resistance, as being a little more afraid, though not asham'd to oppose an Offer to encrease the Revenue, than they were before.

And here, because I have often insisted upon it in this Tract, that this is a real Proposal to encrease the Duty; and it being a little unusual and odd, that the Distillers should move to pay more than they did before; and because nothing is more convincing than Demonstration, I freely appeal to the Commissioners themselves, and fairly invite

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them

them to exhibit to the World a true State of the Product of the Tax upon Low Wines and Spirits, from Malted Corn, since the said Act was pass'd, and the Duty ascertain'd; and that *if they can* they would prove that this Clause has not increas'd the Revenue above one third part more than it was before; and I am inform'd some of their Officers own it is increased above one half.

And all this the Distillers have earnestly endeavour'd to bring upon themselves, chusing rather to pay this Money, and be at a Certainty, than to lie at the Mercy of these Commissioners, and their scandalous Tribe of Informers, who before gain'd their Living by Plunderings, vexatious Suits, discretionary Charges, and innumerable Injuries, which they were daily upheld in and encourag'd to by their Masters.

Another Historical Example I cannot omit, which also happen'd in this Interval, and which I bring here because it is a notorious Instance of the same Cause.

The next Person they singl'd out to express their Resentment on, and for whom they had long laid wait, was Mr. *John Mackley*, an honest Distiller, just without *Aldersgate*; but who, as they understood, had been very stirring and active to procure the laying the Case of the Distillers as aforesaid before the Parliament.

The feeble Pretence they had against this Gentleman was, That some body had inform'd them, that Mr. *Mackley* had brib'd one of their Officers, to omit charging him with the Duty.

Upon this Pretence, though there appears no Affidavit of the Fact, they take one of the most presumptive, as well as ignorant Steps, that ever Men in their Places attempted in this World, and so directly contrary to the known Liberties of the *English* Subject, who in no Case can be oblig'd to accuse himself, that one would have thought these Gentlemen had perfectly

perfectly forgot there was any such thing in *England* as a *Magna Charta*; or that there had lately been a Revolution, and a whole Line dethron'd for breaking of it.

But the Commissioners, blinded by their Revenge, and pusht headlong by their haughty Passions upon such Precipices as these, saw nothing before them of what might be the Consequence, and how they were digging the Grave of their own Authority, in their rash Prosecutions.

The first Step they took with this Gentleman therefore was very extraordinary; they exhibit a Bill in the *Exchequer* against him, by which he is required *Upon his Oath to set forth what Quantity of Low Wines and Spirits he had ever made since he was a Trader, and had not paid Duty for; or in plainer English, Mr. Mackly was oblig'd to turn Evidence and Informer against Mr. Mackly, and Accuse him to the Excise-men, if ever he had defrauded the Queen of the Duty on a Gallon of Spirits; and consequently to convict himself, and lay himself at the Mercy of the Commissioners.*

Mr. Mackly, finding himself thus oppress'd, apply'd himself likewise, as Mr. Fuller had done before him, to my Lord Treasurer, in the following Petition.

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To

To the Right Honourable Sidney, Lord
Goldolphin, Lord High Treasurer of
ENGLAND.

The Humble PETITION of John Mackley,
Distiller of Malted Corn.

Sheweth,

THAT your Petitioner is a Distiller, and hath paid the Duty of Excise, according to the Rate of Proportion adjusted by the Commissioners of Excise, and the same hath been answered and paid at the Office of Excise accordingly; notwithstanding which a Bill in the Exchequer is exhibited against your Petitioner, to set forth divers Matters therein contained, relating to the Revenue of Excise, of which your Petitioner is not capable to give Answer; and prays, That your Lordship will be pleas'd to hear your Petitioner and his Council thereupon: And your Petitioner shall ever pray, &c..

Whitehall, Treasury-Chambers, Dec. 4. 1705.

THE Right Honourable the Lord Treasurer of England is pleas'd to refer this Petition to the Commissioners, for managing her Majesty's Revenues of Excise, who are to consider the same, and certify to his Lordship a true State of the Petitioner's Case, with their Opinion what is fit to be done therein.

William Lowndes.

Upon

Upon this Reference of my Lord Treasurer's, the Commissioners (it being then Sessiontime at the Old Bailey) send Mr. Bulstrode their Soliciter, with a Bill of Indictment against John Mackley, who so managed and solicited the Matter before the Grand Jury, that they were prevail'd upon to find the Bill; upon which a Warrant was issued out to take him into Custody, and then the Commissioners make this following Report to my Lord Treasurer.

To the Right Honourable Sidney, Lord Godolphin,
Lord High Treasurer of England.

May it please your Lordship,

IN Obedience to your Lordship's Order of the 4th. of Decemb. instant, signified to us by Mr. Lowndes, to consider of the Petition of John Mackley, Distiller, hereunto annexed, and to certify to your Lordship a true State of the Matter thereof, with our Opinion what is fit to be done therein.

We do humbly certify, That having lately discovered that the Petitioner had corrupted one James Dodd, one of our Officers of Excise, by giving him divers Sums of Money, as a Bribe, to omit charging him with the Duty of Excise for several Quantities of Low Wines and Spirits, made by the Petitioner. We thereupon discharged the said Officer, put his Bond in Suit, and caused both him and the Petitioner to be indicted for the same at the Old Baley, where the Bills of Indictment were last Sessions found against them both by the grand Jury, and the Defendant was thereupon taken up, and hath given Security to try the Indictment next Sessions. Though Dodd keeps out of the Way; but that Indictment being only intended

as a Punishment of the Petitioner and Officer, and to deter others from the like Practice, we thought it our Duty to urge the Petitioner upon his Oath, touching what Duties of Excise for Low Wines, and Spirits he was in Arrears, and hath not paid for; to the end the same may be answered to her Majesty. And therefore ordered him, amongst others, to be inserted in a General Bill in Equity, to discover upon his Oath what Money he owed for the Duty of Excise on Low Wines and Spirits, wherein all Penalties are waived.

The Petitioner was thereupon served with a Subpœna, returnable last Michaelmas Term; to which Bill the Petitioner hath appeared, and is to give his Answer before next Term.

Now whereas the Petitioner in his Petition alleges, That he cannot answer the Matters charged upon him in the said Bill, We are humbly of Opinion, That he, and all Distillers, keep an Account of what Low Wines and Spirits they make, and that they have Receipts for what they pay Duty for; so that we suppose he is rather unwilling than unable to make such Discovery upon Oath. Knowing, that if he discovers that he hath paid made more Low Wines or Spirits, than he hath paid Duty for, he lies liable to the Payment thereof; and if his Answer should be false, Dodd, whom he corrupted, is liable to detect him.

Upon Consideration of the Premises, we are humbly of Opinion, That he ought to put in his Answer, and pay her Majesty all the Arrears he owes for the Duty of Low Wines and Spirits.

The which, nevertheless, we submit to your Lordship's great Wisdom.

Dec. 17th.

1705.

And

And under this Report, is minuted from the Treasury Chambers of December 17th. 1705. these Words.

MY LORD CONCURS WITH THE COMMISSIONERS.

Thus stood Mr. Mackley's Case, when the Time for Trial upon their Indictment drew near, in which the personal Malice of the Commissioners is very remarkable.

It had been easy for the Commissioners to have preferred their Indictment in the *Queen's Bench*, or any other Court, but they chose to bring it before the Commissioners of *Oyer and Terminer*, that they might bring Mr. Mackley upon the Stage as a Criminal, and try him in open Court among Felons and Murtherers, where some of the Gentlemen themselves merit much more to have stood.

In this Case the Bill being found, upon *mean Evidence* God knows, Mr. Mackley mov'd for a *Certiorari* to remove it to a Superiour Court; but Mr. Bullstrode, the Solicitor of their Office, by misrepresenting it to the Judges, prevented it, and it was denied him, unless the Commissioners would consent to it.

Upon which Mr. Mackley, who was something concern'd to be expos'd in such a Place, address'd himself in a very humble manner to the Commissioners, to admit him to remove it; in Return to which, after making him wait an Hour for an Answer, they never vouchsaf'd to call him in, but haughtily sent him out a Message, that he must prepare for his Trial at the *Old Bayley*, and no where else, or to that Effect.

This is the Treatment the *Queen's Subjects* meet with from these People; and this is their Behaviour to Men, who help pay the Taxes they live by; and who, their Commissions excepted, are their Superiours, both in Character and Estates.

If such Dealing is allow'd in a free Nation, where Justice and Right is fixt by Law, and every Subject ought to enjoy his Liberty and Property without Molestation, the Revolution has been made in vain; and we are yet at a greater Distance, than we imagine, from what we have so long fought for, and paid so much for.

To me, it seems very strange, these Gentlemen should be so ignorant of our present Constitution, as to think Men dare not see them at a Court of Justice; or that the Queen's Courts were not open to all her Subjects, as well as to them. The Folly, and ridiculous Malice of their Cause they could not but know; and I doubt not, they must, had they considered, have known what would have been the Issue: But 'tis manifest, they thought to have carried all things by Figure and Power; and that Mr. *Mack* would have been run down by their Authority, without Regard to the Justice and the Merits of the Cause.

But they found themselves mistaken; the Judges were too just, and the Jury too honest; and tho' Mr. *Townsend* thought to assist, by placing himself on the Bench among the Justices. he found a false Cause receiv'd no Advantage there from a strong Face, but had the Satisfaction to see himself justly reprov'd by the Court, laugh'd at by those that stood by, baffled by Truth, and go away with all the Shame.

Now let us come to the Charge, for which this Gentleman was thus handled.

This is the Treatment the Queen's Subjects meet with from these People; and this is their Behaviour to Men who pay the Taxes they live by; and who their Commissions expired, are their Superiors; both in Character and Rank.

The

The INDICTMENT against Mr. Mackley.

THE JURY for the Queen, upon their Oath present, That *James Dodd*, late of *London*, Gentleman, the 2d of *December*, in the 3d Year of the Reign of our Queen, at *London* aforesaid (to wit) in the Parish of *St. Botolphs Aldersgate*, in the Ward of *Aldersgate*, and long before then, and for the Space of a Year afterward, was one of the Officers of the Queen's Excise (to wit) a Gauger within the Parish and Ward aforesaid; and that during his Continuance in the said Office, ought to Gauge all Malt-Wash, prepared for making of Low Wines, by one *John Mackley*, of the Parish and Ward aforesaid, a Common Distiller of Spirits and Low Wines for Salt, and by him then Extracted and Distilled from Malt-wash; as also Spirits Made and Extracted from the said Low Wines, and sold by the said *John Mackley*, in the Parish and Ward aforesaid, and to return a true Account of the same, being appointed Officer for that purpose, according to the Form of the Statute in that Case Made and Provided; and that afterwards (to wit) the same Day, Year, Time, and Place, the said *James Dodd* and *John Mackley*, then, and long before, and for the Space of a Year afterwards, conspir'd and agreed together, to defraud the Queen of the Duty upon Low Wines, and other Spirits, and so to heap up Money for their own Use; which Agreement was made between the said *James Dodd* and *John Mackley*: And the said *James Dodd* neglected to return, as he ought to have done to the Office appointed, an Account of a certain Quantity of Low Wines and Spirits, by the said *John Mackley* Extracted and Distilled from Malt-wash: And that the said *James Dodd* had receiv'd, for such

F

Omissions,

Omissions, a great Sum of Money (to wit) two Pounds, twelve Shillings, to his own Use, from the said *John Mackley*. And that the said *James Dodd* afterwards (to wit) the same Day, Year, Time and Place, contrary to the Trust in him reposed, and to his Duty in the said Office, intending to defraud the said Queen of the Excise Duty, on Account of the several Quantities of Low Wines from Malt-wash (to wit) three hundred Gallons of Low Wines, then, and there, by the said *John Mackley*, of the said Malt-wash Distilled, and of several Quantities of the said Low Wines, to wit, 150 Gallons of Spirits, then and there by him Distilled and Sold, or any part thereof, with several Quantities of Low Wines, and other Spirits, the said *James Dodd* had Notice thereof to any Officer of Excise, or any other Person Authoriz'd, then, or at any other Time, returned as he ought; but contrary to his Duty, in his said Office, fraudulently, and by Contrivance of the said *Mackley*, then neglected and omitted the doing the same. And the Jury do further represent, That the said *John Mackley* paid the said *James Dodd* for such Omissions, two Pounds, twelve Shillings, to wit, the same Day, Time and Place; and the said *James* accepted and converted the same to his own Use, to the Damage of the Queen, and her Excise, and an ill Example to other Delinquents, and contrary to the Peace of the said Queen, Her Crown and Dignities.

Now had this Fact been true, if there is a particular Law of Excise, *That whoever bribes an Officer, shall forfeit 10l. for every such Offence, prov'd by two credible Witnesses*—What need then was here for an Indictment at the Old-Bayley, but merely to Harraß and Expose the Person of Mr. *Mackley*?

Another Clause in a late Act of Parliament, says expressly, *No Brewer or Distiller shall be inform'd against, or call'd*

call'd to an Account for any Offence whatsoever, against the Laws of Excise, if the Prosecution be not begun in three Months; and 'tis plain, this lay unprosecuted for twelve Months, viz. from the 2d of December, 1704. to the 12th of December, 1705.

Well, after all this Malice, What shall we say for our Commissioners now? When at the Court, they had Indicted and Persued this Gentleman with so much Fury, and could not make out the Fact; could not prove so much as a Similitude of it; nor would their own Informer (tho' as hard Mouth'd a Fellow as they could well procure) say there was any such thing as a Bribe given, only 2 l. 12 s. 0 d. paid the Officer for so many low Wines and Spirits, as the Duty of which came to 2 l. 10 s. 0 d. no more, nor less.

When Folks bribe Men, 'tis to get by them; but never was such a blind Indictment laid where the Crime was a Bribe, to lose 2 s. by the Bargain, giving 2 l. 12 s. Bribe, for 2 l. 10 s. Duty; and thus hiss'd at, and expos'd as they deserv'd, they lost the Cause, and Mr. Mackley was fairly acquitted.

And now, what Satisfaction is due to honest Men, who, in the fair and just Pursuit of their lawful Employments, are thus harass'd and worry'd by such Harpyes and Blood-suckers, in pretence of doing their Duty to the Queen? Who, all the World knows, is far from desiring the least Injury, or Vexation, should be offer'd to Her People; but that all Her just Taxes should be levy'd with Justice, Moderation, and all possible Ease to Her Subjects.

This is the one Disgrace, these Gentlemen Excise men have met with: Another is at hand: For the Term being come, and Matters prepar'd for a full Tryal, between Mrs. Hester Fuller, and the Officers that seiz'd her Melasses, the Defendants mov'd for a special Jury of Gentlemen.

It was very unhappy for these People; that like the Unfortunate, Every Step they take, helps forward their Disaster;

here, every Step they took, was against themselves : For Mrs. Fuller, whose Case was honest and fair, desir'd nothing but a Jury of such Men, from whom she might expect a fair Judgment.

The Names of which Jury, are inserted at the Close of this Book.

Upon a full hearing of the Cause, the Jury immediately brought in their Verdict for the *Plaintiff*, and awarded her to be paid the full Sum of 92 *l.* for the Melasses, and Costs of Suit, to the unspeakable Shame and Mortification of the Commissioners, and their *Band of Pensioners*, the Gaugers, who are now forc'd to refun'd, pay Damages, and I know not what ; and their Officer, that design'd to buy him a Coach out of Mr. Fuller's Estate, may, if he lives to go on, have the Misfortune, to walk a-foot to Goal.

It would be a needless Digression, to enter here into the particular Arguments made use of on both sides, in the respective Tryals : 'Tis enough to inform the Reader, that in either Tryal, the Commissioners had so little to say, such weak and absurd Allegations, and such slender Proof of the Matters of Fact, that all people wondred, their Discretion should fail them so much, to bring such ridiculous Causes to a Tryal : The Juries therefore, in both Cases, gave it unanimously against them, and no man could have desired to see them more expos'd.

After the Mortification of the last noted Tryal, they took another Step, which evidently prov'd the Grounds they go upon in all their Prosecutions ; and that they presume upon the Advantages of making Tryals Expensive ; and that Tradesmen will rather bear their Oppressions, than suffer the Charges of contending with them ; the Tradesmen bearing their private Loss, and these pursuing them at the publick Expence.

That this was in their aim is plain, by their moving for a new Tryal at Bar. — Upon the Presumption,

Mrs. Fuller

Mrs. *Fuller* would rather comply, than be at the Charge of such a Tryal, which would cost about 150 *l.* as soon as ever they were inform'd, that Mrs. *Fuller* would see them there, and stand it, they wav'd that Advantage, and submitted.

Their Mortification was yet greater, when on their Motion for a new Tryal: Mr. *Fuller*, by his Council, objected, That tho' Mrs. *Fuller* was willing to have her Case try'd as often as they thought fit, yet as the Decision of this Case, was a Determination of Mr. *Fuller*'s Property, and which had at once acquitted him of about 36000 *l.* Forfeitures, to bring it to a new Hearing, would be a second Tryal of that Property, which was contrary to Law, to have him be put in Jeopardy twice, for the same thing; that therefore they mov'd, if Mrs. *Fuller* did consent to a new Hearing, the Commissioners might be oblig'd to wave their Pretence of Forfeitures on Mr. *Fuller*, his Property having been already determin'd by Law, at the last Tryal.

This hamper'd the Ravenous Commissioner extreamly, being loath to quit Mr. *Fuller*, whom they had devour'd in Prospect before; however, the Court found it so reasonable, that it was granted; and if they would have a new Tryal, they must submit to it, which they did, and so obtain'd an Order for a Tryal at Bar.

But the day of the Tryal being near, they found their Cause too bad, which 'tis plain, they knew before, and only drove things on to the last Extremity, in hopes of frightening the Plaintiff; but finding her resolute, and all things preparing, they beat a Parley, and their Attorney comes to Mrs. *Fuller*'s Attorney, and tells him, he had no order to proceed to the new Tryal, but that the Commissioners would wave it, and sit down by the old Verdict, and that accordingly he would tax the Costs, which was done, at 25 *l.* 15 *s.* 10 *d.* In which they had more Favour than they merited, the Allowance to the

Jury,

Jury, being tax'd but as a Common Jury, tho' it was a special Jury, Empannell'd at their own Motion.

I cannot but recommend it here to the Publick, to consider, how in such Cases as this, this Nation is abus'd: If Commissioners, thus acting contrary to Law, pushing Families to Ruine, from meer private Revenge, shall be able to pass the Expence of such Vexatious Illegal and Dishonourable Prosecutions, to the publick Account; and I humbly recommend it to Mr. *Auditor of the Impress*, when those Accounts come before him, who is a person of such Justice, Moderation and Honour, that no question, he will examine the Cause of Action, before he passes the Expence to the Debt of the Crown in their Accounts.

And all this in Revenge, meerly for Mr. *Fuller* and Mr. *Mackley* being instrumental, to raise the Duty to the Queen, at least one third more, than it was before; for which Mr. *Townsend* had the Mortification, to receive a very just Reproof from the Bench at the *Old-bayley*; at which, had he not been past blushing, he ought to have shown more Sense of Guilt than Mr. *Mackley*, who then stood at the Bar on his Tryal, as if he had been a Malefactor.

It may not be amiss, and perhaps a little diverting here, to note, how unhappily these Gentlemen were further mortify'd in the Payment of this Money, which perhaps may serve to discover, how humble some men will be, when they are duly handled, who are unsufferably insolent to those that submit to them.

When the Cost being tax'd, there remain'd nothing but the Payment of the 92 *l.* and Costs: Mrs. *Fuller's* Attorney was acquainted, that the Money was ready at the Office, and he might send for it when he pleas'd; but Mr. *Ashton*, the Attorney, knowing well enough, that he was not oblig'd to wait on them, or to fetch the Money at all; but on the contrary, that it was their Business to pay it, as in all such Cases is the known Practice; gave for
Answer,

Answer, That he expected the Money should be carry'd to Mrs. Fuller, his Clyent, and paid there; that when they thought the Law of their side, they made no Scruple to send to her House, and plunder her of her Goods; and as the Law was now on her side, and had order'd the Thief, to restore what he had stoll'n, she expected they should come and leave it, where they found it, or to that Effect.

This was very mortifying; and Mr. Ashton was then desir'd privately, to fetch the Money; for that it was a Dishonour to the Commissioners, to make them stoop so low; tho' I cannot but think, I must confess, he that stoops to steal, ought to be made to stoop to Punishment; and this was manifestly no better.

The Attorney being still faithful to his Clyent, refused to go to the Office for the Money, and sent them word, in the mean time, That if the Money was not paid, he must proceed; then the Money was sent to their own Attorney's Chamber in the Temple; and Mrs. Fuller's Attorney was desir'd to come and receive it there, which he still refused—So at last they were forc'd to stoop to the Necessity the Law had brought them to, and carry'd the Money to Mrs. Fuller's Compting House.—

But that, if possible, they might hook Mr. Fuller into some Snare or other, they rais'd a sort of a new Difficulty in the Payment; and that was, pretending Mr. Fuller had a Note under some of their Officer's Hands, relating to some Arrears, or Overplus, they hardly knew what; but they must have this Note deliver'd up—on Payment of this Money.

They were ask'd, If it had any Relation to this Cause? Or if a Note, in the Hands of Mr. John Fuller, could be any thing to Mrs. Hester Fuller? And Mrs. Fuller told them, she knew nothing of her Father's Business, nor had any thing to do with them; much less, would concern this Affair with them; that she had no Business with her Father,

Father, nor her Father with her, but if they would pay the Money, she was ready to receive it, if not, they might go about their business; which they did to their Cost, or to the Queen's Cost, I should have said; for in the publick Revenue, it seems, they make the Queen pay for all their follies and mistakes.

Mrs. *Fuller's* Attorney being as vigilant as they upon this New Delay, caused a new Prosecution to be commenc'd that very Evening; and bringing a New Action upon the former Judgment, in the Morning, two of the Defendants were taken up.

This was a New Surprize to them, for they supposing Mrs. *Fuller* would take out Execution only, and so the matter would terminate upon the Seizure of Goods, or Persons. They now have a new and multiplying Charge coming on, which wiser Heads than theirs could not see the end of.

This Alarme brought Mr. *Balfrode* with the Money to Mrs. *Hester Fuller's* Compting House a second time, where he was pleas'd to pay it without the Bill he had talk'd of before, and about Seven Pounds for fresh Charges for their last ridiculous delay.

How they will state these Expences also, and to whose account they shall pass in their general Cash, I leave to Mr. Auditor to examine, vvhho no doubt vwill do Her Majesty justice in such things as these.

Thus I think 'tis made very plain vvhhat they must expect who attempt, tho' in a legal and fair method, even by Parliament, to restrain the exorbitant and rapacious Extortions of these Men of power: Nay, tho' they are willing to pay greater Taxes for the purchase of the just Liberties they demanded.

For tho' this is a Victory, and Mrs. *Fuller* is fully recompensed by the Law, yet as the Victor always buyes his Conquest with a Cost, so the Cost given Mrs. *Fuller*, were far

far short of her Expence, for she having expended 54*l.* 7*s.* 5*d.* in the Prosecution ; and the Cost being tax'd but at 25*l.* 15*s.* 10*d.* she lost 28*l.* 11*s.* 7*d.* by them, besides putting her to great Trouble and Hindrances in her Business.

And here, before I go on with the Historical Collection of their Oppressions, I must note a few things which relate to the past Affair, and which serve to explain some parts of it.

1. The Reader is desir'd, to note the State of the Duty charg'd on Low Wines and Spirits before the Regulation, or ascertaining of it, and the State of it afterwards, as follows.

The Duty, as charg'd before, was one fifth of the Wash, suppos'd to be Low Wines, and one half of the Low Wines to run into Spirits.

The Duty, as now ascertain'd, is one fourth of the Wash into Low Wines, and three fifths of the Low Wines into Spirits: The difference of the Payment to the Queen, is as follows.

Suppose the Quantity to be 600 Gallons of Wash?

The OLD CHARGE.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
600 Gallons of Wash to run $\frac{1}{5}$, is 120 Gall.	0	10	0
Low Wines, at 1 <i>d.</i> per Gall. Excise, is—			
120 Gall. Low Wines to run $\frac{1}{5}$ into Spirits, is	0	10	0
60 Gall. of Spirits, at 2 <i>d.</i> per Gall. Excise, is			
Neat Duty is—	1	0	0

The *NEW CHARGE.*

	l.	s.	d.
600 Gallons of Wash to run $\frac{1}{2}$, is 150 Gall. } of Low Wines, at 1 d. per Gall. Excise, is--	12	6	0

150 Gall. of Low Wines to run $\frac{1}{2}$ in Spirits, is } 90 Gall. of Spirits, at 2 d. per Gall. Excise, is	15	0	0
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Neat Duty is—	7	6	0
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Gain to the Queen, by the <i>New Charge</i> , in } every 20 s. Duty paid before—	7	6	0
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2. The Reader is desir'd to note, That such is the Advantage of this Alteration, from the Certainty of the Charge, and the Impossibility of Frauds on either side; that by an Abstract obtain'd out of their own Accounts, it appears, That from the 24th of *March* last, when this Regulation took place, to the 1st of *June*, being about 10 Weeks; the Excise for distilling of Malted Corn, within the Weekly Bills of Mortality, wanted but 13 l. 6 s. 1 d. of being one half as much more, as it was before.

From whence I take the Liberty to make a short Calculation, which tho' it be conjectural, perhaps it may start a Question to the Commissioners of Excise, which they will never answer.

Suppose in the Taxing the Distillers of Malted Corn for one Year, any certain Sum be named, as rais'd before this Regulation. Say it be 100000 pound.

By the Advance of 7 s. 6 d. per l. that Charge will now amount to three Eights more, which is in the whole 141333 l. 6 s. 8 d.

This

This is very considerable ; there being 41333 *l.* 6 *s.* 8 *d.* gain'd clear to the Queen in every 100000 Excise.

But what shall we say to the Mystery of Iniquity that follows, if it be true, *that it should* advance three Eighths? *But really does* bring in four Eighths, or a half, within a Trifle, more than it was before charg'd ; as is apparent, the Queen is still a great Gainer ; but who were the Knaves and Fools before ? This is the Question I would have the Commissioners answer.

Certainly there must be a plain Fraud somewhere ; for that here appears by the new Regulation, the advanc'd Charge raises 41333 *l.* 6 *s.* 8 *d.* and the ascertaining the Quantity, raises 8666 *l.* 13 *s.* 4 *d.* more.

Now 'tis evident, this Quantity might have been ascertain'd before ; if it was not, it must proceed from one of these 2 Causes : Either the Officers, by Favour and Partiality, conniv'd at a short Charge, or the Distillers found very profitable Ways to deceive them ; if the first, they were Knaves, and cheated the Queen ; if the last, they were Fools, and did not understand their Business.

It seems to me, it cannot be the last ; for if the Distillers were thus too cunning for the Officers, so much to their Advantage, why then should they be the Men that solicited so earnestly for the Alteration, and were willing to pay 7 *s.* 6 *d.* in every 20 *s.* more than they did before, rather than go without it.

It is not probable, they would stir for a Regulation, who compleatly saved 9 *s.* in every 20 *s.* before ; this would be, to take the Cap from the Officers, and give it to the Distillers with a witness ; they would merit, to have a Commission of Lunacy sit upon them, rather than a Commission of Oyer and Terminer ; and the Excise-men would have more reason to laugh at them for Fools, than ever they have had yet, or are ever like to have.

It must then be the first; that the Officers, and some of the Distillers (for which no question the first have been well paid) have always conniv'd at these Frauds; and the Government has suffer'd, between them, about 20000 *l.* in every 200000 *l.* Duty that has been collected; and let the Commissioners come off of this if they can.

This is the Fraud Mr. *Fuller* has often attempted to detect, or at least, to prevent: If it be ask'd, why should a Distiller go about it? The Answer is plain; A fair Trader suffers in nothing more, than by the Disadvantages he lies under, from the Clandestine Trade of his Neighbour; and if another can undersell him, by a Trick in the Excise, he grows rich by the Fraud, and the fair Trader works for nothing: That there was such Inequality in the Trade, was too plain to be doubted, tho' not easy to be detected; and nothing could put a stop to the Mischief, like this Method of ascertaining the Lengths of the Wash.

This Mr. *Fuller* therefore attempted almost 3 Years since, viz. 1702. but could not compass it then; but having, with Mr. *Mackley* and others, with great Expence and Charge, brought it to pass now, the Fury of the Commissioners has been in all the past Particulars bent; first, to oppose it; and next, to ruin them for attempting it; but Truth and Justice has prevail'd; and there is no doubt, but if others are equally encourag'd, to make known their Grievances, the Tyranny of the Commissioners, will be absolutely reduc'd, the Queen have Her Taxes peaceably paid, exactly collected, and the Subject freed from the Barbarities and Extortions of a Set of Men, who have hitherto liv'd upon the Blood of Families, and rejoyc'd over the Calamities of those they have most unjustly and barbarously ruin'd.

And

And that this Charge may not be counted too heavy, and this Book be branded with the same Injustice it is wrote to expose, I shall a little descend to Particulars, and give you a few out of the infinite Crowd of prodigious Excesses, they have been guilty of.

'Tis true, that the Laws of Excise are very severe; and without doubt 'tis necessary, that when Taxes are charged on the Subject; Methods ought to be taken, to secure the Payment to the Government: And this is both just to the Government, and to one another, that the Equality of Taxes may be regulated, since what is deficient in one, is always made good upon the whole Nation.

But this Severity of the Laws, does no where require cruel and rigorous Exactions; barbarous, destructive, and furious falling upon Men and Families: Of which, the following is an Instance, all good Men must read with Abhorrence.

About the Year 1711 there was an honest, and very industrious Man, a Distiller, by Name *Richard Stanley*, a Quaker, who liv'd in *Wapping* and carry'd on his Trade with a tolerable Prospect; but having several Losses, and a large Family, did not make so current Payment as the Commissioners requir'd, being in Arrears 146*l.* 12*s.*

This Man had order'd some new Backs to be made, and set up in his Work-house, and they were then finishing, but not quite done; the *Back-maker* having at least a Week's Work to do on them, to make them fit for Use.

The Distiller thought it was soon enough to enter these Backs at the Office, when they should be finish'd and fit for Use; and in the mean time, they were so far from being offer'd to be conceal'd, that the Workmen were publickly at Work on them, and the Officers every day saw them in the House.

Not

Notwithstanding this, the Officer by Name, staying as long, till he thought the Presence would bear, Informs against this Man, for Erecting these new Backs without entering them; and the Commissioners, according to their usual Justice, concurring with the Officers, condemns the poor Man, to pay 80 *l.* for this pretended Fraud.

This added to his former Debt, made it 226 *l.* 12 *s.* 4 *d.* which the poor Man being unable to pay so soon as they requir'd it, they fall upon him with most unsufferable and unparallel'd Fury.

His *Still-House*, which cost him above 500 *l.* to Erect, they pull'd all to pieces, tore up his Stills and Backs, and appraising them after their own manner; and at their absolute Pleasure, sold them most unreasonably below the real Value.

They sold three Stills, with Worms and Tubs, for 120 *l.* and the poor Man makes it appear, that one of those Stills, by the weight of the Copper, came to 102 *l.* and cost him so much at second hand, but a few Months before.

The Backs, and all the Wooden Work, which cost him above 150 *l.* and which was all in good Condition, fit for the Trade, they sold for 3 *l.* 19 *s.* 6 *d.* or thereabouts.

They sold as much Spirits for 7 *l.* 0 *s.* 0 *d.* as they themselves had charg'd the poor Man with 18 *l.* Duty to the King.

And thus the poor Man and his Family was entirely ruin'd, and turn'd out of Doors: And notwithstanding all this Havock, and the Destruction they made of his Goods, they sold them for 6 *l.* 11 *s.* 6 *d.* more than they demanded, which yet they never would return to the poor Man, to this day, tho' he has earnestly solicited them for it; and is reduc'd so low, that he

he has often wanted such a small Sum for Bread for his Family, and now works in a *Still-house* for weekly Wages to subsist his Children; of whom, if Inquiry be made, I doubt not but the Reader may be inform'd, that I have related the Story, rather in the Commissioner's Favour, than otherwise, being resolv'd to do them Justice, even in the worst Accounts I shall give of their Behaviour.

The Story of ruining Mr. *Walker* and his Family, is still worse than this, of which they may hear hereafter.

To make good the Charge against them, in the beginning of this Tract, of denying Justice to the Distillers, when they complain of the Injury of their Officers, take the following short Account.

A Certain Distiller, whose Name the Commissioners cannot be ignorant of, when they read the Particulars, had a false Charge made upon him; by which the Reader may please to understand, he was charg'd by the Duty for more Wash than he had in his Vessels; but the Officer being peremptory in his Charge, the Distiller complain'd to the Commissioners, as the Law in that Case directs.

When the Case came before the Commissioners, contrary to all Courts of Justice in the World, which generally hear the Complainant first, and then the Defendant, they to be particular as well as partial, taking the Case from the first Complaint of the Distiller; calls up the Officer, and orders him to give an Account of the Fact; having heard him only, they immediately gave their Judgment against the Distil-
ler,

without so much as admitting him to reply, or hearing his Evidence, and refused to swear a Servant he brought with him, to prove the Fact.

With what Face Men can thus pervert the known and fundamental Articles of distributive Justice, I cannot imagine; and if they expect never to give account for these Actions, they must certainly live in hopes, that some time or other, Parliamentary Authority shall be suppress'd, and that Power die which has always been a Terror to the Exorbitances and Exactions of Insolent Tax Gatherers.

It is farther remarkable in this Story, That the Distiller boldly telling them, *He would seek for Justice against these Partialities; one of the Commissioners, and the great Manager of these Injurious Proceedings, viz. Mr. T* ——— and turning to the Solicitor, asked, *If the Distiller had paid the Money for this false Charge?* To which he was answer'd, *Yes: Well, well!* says the Commissioners, *If we have but the Money, let him seek for Justice where he can, and see how he will get it again.*

To prove what is suggested of the Commissioner's Con-
niving at, and Encouraging their Officers in the Op-
pressions of the Subject, and Rewarding them by the
Penalties they raise; take the following short Story,
which will be publickly attested by undoubted Evidence.

AN Information was order'd to be brought by an
Officer, against a noted Distiller in the Town,
on pretence of such Breaches on the Laws of Excise;
The Penalties of which would have risen to a very
great Sum.

The

The Distiller brought such plain Evidence of the Fact, and so well manag'd his Defence, that in spite of their very good Will to ruin him, Things were so very plain, and the Information so weakly supported, they were forc'd to acquit him.

After the Disappointment, and as we suppose, to comfort the Officer for the Loss, a certain Commissioner was heard to tell him, *He was sorry he could not serve him now, but another time he would make him amends;* or Words to that Effect.

What can the meaning of such an Expression be, but to encourage their Officers in their false Accusations, and supporting the Oppressions they daily exercise upon the Distillers?

To prove their putting off Hearings, and tying out People, with the Charge and Trouble of Attendance, among a Multitude of such Cases, Mr. — Bowden's is very remarkable.

MR. Bowden had an Information laid against him, which 'tis supposed, could not be very clearly made out; and appearing to take his Tryal, with his Witnesses and Council, whom he had fee'd to attend; without any Reason given, or any Day assign'd for his further Attendance, the Hearing was put off.

Some time after this, when Mr. Bowden was occasionally at the Office upon other business, and without the least notice of any such thing, they order'd him to be call'd in, and told him, *They would then hear it.* —

It was a long time, and with great Difficulty, that he prevail'd upon them to put it off, alledging, *That he was unprovided of his Evidence, Papers, and Council, for his Defence.*

After this it was delay'd again for several Times; and at last being inform'd, that his Servant who was his Evidence, was gone from him, and liv'd as far as *Bristol*— They summon'd him to a Trial peremptorily by a short Day; so that it was impossible for him to fetch up his Evidence; and by this Advantage cast him.

For Shams and Trifling Pretences against Tradesmen, and for which they have been Arbitrarily Fin'd; take the following out of many more, ready to be produc'd at demand.

MR. Feast the Brewer, at the *Peacock in White-Cross-street*, a Man of an unquestion'd Reputation, and every way superior to the best of these Commissioners, both in Character and Estate; being allowed by all that have Judgment in the thing, to be the greatest Brewer in *England*, and I suppose in the World; and who I believe (*speaking by guess*) has in his Time, paid 200000 *l.* Excise to the Crown; some say much more.

This Gentleman keeping an Engine or two always in his Yard, to be ready, in case any Accident of Fire should happen, had order'd his Men (as it is very necessary to do, and as they used to do about once a Month)

Month, to try the Engine, that they might be satisfy'd it was in order.

Upon this, the Mob coming into the Yard to see it Play, it happen'd, that among the Crowd, the Excise-man was coming to his Business; this the Servants could not, and offer'd to make Affidavit, they did not see: In playing the Engine, the Servant turning the Spout among the Crowd, as in Sport is frequently done, he chanc'd to wash *HIS HONOUR*, the Excise-man;—who appear'd exceedingly affronted at the Indignity offer'd to his Quality: And tho' the Servants ask'd his Pardon, and profess'd they did not see him, and the Master not present, yet he could by no means be appeas'd; but goes the next day to the Office, makes his Complaint to the Commissioners, and brings an Information against Mr. *Feast*, for his Servant's obstructing him in the Execution of his Office; the Penalty for which, by Act of Parliament, is 20 *l*.

This came to Tryal before the Commissioners; who, notwithstanding the Circumstances were prov'd as above, gave Judgment against Mr. *Feast* for 20 *l*. and upon his Appeal, the Commissioners of Appeal confirm'd it, and he paid 20 *l*. for wetting the sacred Coat of a Beggary Rascal; that had he design'd nothing but his Business, might have gone two or three other ways into the Brew-house, and not have come in reach of the Engine.

One Mr. *Henry Hall*, a Syder-Maker, had a Ware-House some distance from his Dwelling-House; and having some Business at his Ware-House, he found the Excise-man knocking at the Door; but his Servant, whose Business was in the said Ware-house, was gone out, and the Door lock'd.

The Excise-man demanded Entrance, and Mr. *Hall* desiring him to stay till he could find the Man, who he thought had been at the Ware house; the Excise-man seem'd uneasy; at which Mr. *Hall* order'd another of his Servants, who came with him immediately to break open the Door, that the Excise-man should have no Pretence upon him; which the Excise-man perceiving, and that if the Door was open'd, he should lose the Opportunity of informing, immediately goes away, and would not stay to see the Door open'd, but lays an Information for 15 *l.* for being deny'd Entrance; on which Information the Commissioners gave Judgment; and the Court of Appeals, to whom Mr. *Hall* had recourse, confirm'd the said Judgment.

Another Prank like this, was play'd by an Excise-man, with Mr. *Fendril*, a Distiller in *Holbourn*. The Excise-man, in the dead of the Night, when Mr. *Fendril* was in Bed and asleep (taking a Constable from the Watch) comes to his Door; and not offering to awake Mr. *Fendril*, or any of his Family, demands Entrance, which Mr. *Fendril* (as I know not how he should) being asleep, took no notice of.

At the same time the Officer pretended the Chimney smok'd, and call'd the Watch-man to take notice of it, which he did; but declared, he could not perceive it to smok.

Notwithstanding this, away goes he, lays an Information against Mr. *Fendril*; and upon the Tryal, the Officer swore the Chimney did smok; the Constable swore it did not; no Proof was made, that Mr. *Fendril*, or his Servants, were at work, as indeed they were not, but all in Bed; yet the Commissioners gave Judgment against him for 15 *l.* alledging by their Solicitor, *That they*

they ought to keep a Servant always sitting up; to let in the Excise-man, whenever he thought fit to come.

It would be a History too long for any Man's Reading, to set down all the barbarous Treatment the Queen's Subjects daily meet with from these Gentlemen Excisemen; their Arbitrary Judgments, Clandestine, and most Villanous Methods of surprizing the Innocent, and their partial and positive determining Things against Law, Reason, and apparent Testimony of Fact.

How they have determin'd the same Fact as Criminal in one, and Acquitted it in another, is plain from the following Instance.

John Vanden Benden, Sweet-maker, at Dowgate, had a private Copper for making of Sweets, which he was inform'd against for making use of, without Entering at the Excise Office; and coming to a Tryal, he was acquitted; not that it was not made use of, but as not being within the Act.

Rowland Frye, Sweet-maker, in Morgans lane, Southmark, much about the same time, and for the very same individual kind of Fact, was Tryed on an Information, For making use of a private Copper for making Sweets; and the Commissioners gave Judgment against him for 50 l.

If any Man should enquire into the Reasons of these Partialities, they must find them in the Excise Office; no Man else can resolve them. H

I could go on, to give Lists of the scandalous Wretches they employ in the publick Service, who are qualify'd to carry on such things as these. And here, *D--r* the Excise-man, who was to keep his Coach out of Mr. Fuller's Estate, would see his Picture drawn; and the History of his being formerly turn'd out for Misdemeanors, too black to enter upon; together with his drinking King James's Health, at the same time that he eat King William's Bread: And that being dismiss'd for such things, they could not want a Man so exquisitely qualify'd, for ruining of Families, swearing Men out of their Estates, and bringing to pass all the sorts of Insults and destructive Practices which those Men wanted; who study'd more the Penalties of the Excise, than the Encrease of the Revenue.

But this is a Task too dirty to rake in here, and too nauseous for the Ears of the World; 'tis enough their Nails are par'd by this Law; Authority has set Bounds to their Avarice and Cruelty in this part of the Excise, and it can no more be doubted; but if the Brewers please to apply themselves to the same Justice, and with the same Vigour, they will obtain a full Redress of their Grievances, and see the Excisemen reduc'd to such Bounds as the Law directs, that the Tax may be paid without Injury to the Subject; the Property of the Brewers and Distillers secur'd; and they no more, *like Sons born out of Season*, be rob'd of their known and original Priviledge as English-men, of being try'd by their Peers.

The

The NAMES of Mrs. Hester Fuller's JURY.

B *Enjamin Hoskins, of Mile End, Esq;*
George Ford, of Bromley, Esq;
Richard Beauvoir, of Hackney, Esq;
Edward Anthony, of Hackney, Esq;
Nicholas Clark, of Newington, Esq;
Henry Whitcomb, of Finchley, Esq;
Thomas Ellis, of St. Giles's, Esq;
John Clare, of Holbourn, Esq;
Nicholas Goodwin, of Hammersmith, Esq;
Francis Chapman, of St. Martins, Gent.
Thomas Dodd, of St. Andrews, Gent.
William Snelling, of Bromley, Gent.

F I N I S.